

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAN BEDKER, JR.,

Plaintiff,

v.

JOSEPH LEHMAN, et al.,

Defendants.

Case No. C05-5276RJB

ORDER ADOPTING REPORT  
AND RECOMMENDATION,  
DENYING APPLICATION TO  
PROCEED IN FORMA  
PAUPERIS, AND REFERRING  
MOTION FOR SELF RECUSAL  
TO THE MAGISTRATE JUDGE

This matter comes before the court on the Report and Recommendation to Deny Plaintiff's IFP Application. Dkt. 3. The court has considered the relevant documents, including plaintiff's objections, and the remainder of the record herein.

On April 12, 2005, plaintiff, a resident at the Special Commitment Center (SCC), filed an application to proceed *in forma pauperis*. Dkt. 1. On May 9, 2005, U.S. Magistrate Judge J. Kelley Arnold issued a Report and Recommendation, recommending that the court deny the application to proceed *in forma pauperis* because plaintiff has sufficient funds to pay the \$250 filing fee in this case. Dkt. 3. Plaintiff's application shows that he makes \$300 every two weeks working for the DSHS at SCC. Dkt. 1.

On May 17, 2005, plaintiff filed a document captioned Response to R & R Dkt #3 and Motion for Self-Recusal. Dkt. 4. Although this Report and Recommendation was noted for June 3, 2005, it is ripe

1 for consideration, since plaintiff has filed his objections to the Report and Recommendation, and since  
2 defendants have not yet been served.

3 Regarding his application to proceed *in forma pauperis*, plaintiff contends that expenses at SCC are  
4 significant, that he is not a prisoner, and that he should not be deprived of his life savings to pursue this  
5 action. Dkt. 4.

#### 6 DISCUSSION AND CONCLUSION

7 The district court may permit indigent litigants to proceed in forma pauperis upon completion of a  
8 proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in  
9 denying an application to proceed in forma pauperis. *Weller v. Dickson*, 314 F.2d 598 (9<sup>th</sup> Cir. 1963), *cert.*  
10 *denied* 375 U.S. 845 (1963).

11 The record shows that plaintiff has an income of \$300 every two weeks. More than two weeks  
12 have passed since the magistrate judge issued the Report and Recommendation. Plaintiff has made a  
13 choice to file this civil action. While the costs of this action may place a burden on his resources, plaintiff  
14 appears to have sufficient funds to avail himself of his legal remedies by filing this action. Accordingly, the  
15 court should adopt the Report and Recommendation and deny plaintiff's motion to proceed *in forma*  
16 *pauperis*. Before the court dismisses this case, however, plaintiff should have the opportunity to pay the  
17 filing fee.

18 The court notes that plaintiff was granted *in forma pauperis* status on December 8, 2004, in *Bedker*  
19 *v. Seling*, C04-5696RJB, because he had no funds left in his savings account and he was no longer  
20 employed. That is not the case here, where plaintiff appears to be earning an income sufficient to pay the  
21 filing fee.

22 Pursuant to Local Rule GR 8, plaintiff's motion for recusal should be referred to Magistrate Judge  
23 Arnold.

24 Plaintiff is informed that this pleading, in addition to objecting to the Report and Recommendation  
25 of the magistrate judge, also requests that Magistrate Judge Arnold recuse himself. The pleading requests  
26 relief from both the undersigned judge and from Magistrate Judge Arnold. This is a tactic that has been  
27 used frequently by another SCC resident, Richard Roy Scott. Mr. Scott has been placed under severe  
28 restrictions by this court. *See*, for example, *Scott v. Seling*, C04-5147RJB, Dkt. 170. Plaintiff's objections

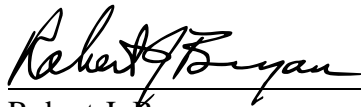
1 in the present case discuss Mr. Scott's cases and unhappiness with the court's rulings in those cases, and  
2 also discuss other cases brought by other SCC residents that are not relevant to the issues before the court  
3 in this case. Dkt. 4. Mr. Bedker is informed that this is his case, not Mr. Scott's. Pleadings such as this  
4 Response to R & R Dkt #3 and Motion for Self-Recusal are unacceptable, and constitute improper  
5 litigation tactics designed to confuse the court and multiply proceedings. Such tactics will not be tolerated  
6 by the court. If Mr. Bedker files pleadings in the future that are improper and abusive, the court will  
7 consider imposing sanctions that could include monetary sanctions and/or dismissal of the case.

8 Therefore, it is hereby

9 **ORDERED** that the Report and Recommendation to Deny Plaintiff's IFP Application (Dkt. 3) is  
10 **ADOPTED**. Plaintiff's Application to Proceed In Forma Pauperis (Dkt. 1) is **DENIED**. If plaintiff  
11 desires to proceed with this civil action, he shall pay the \$250 filing fee to the Court Clerk, not later than  
12 June 23, 2005. If plaintiff fails to timely submit the filing fee, the Clerk is directed to dismiss this case  
13 without prejudice. Plaintiff's Motion for Self-Recusal (Dkt. 4) is **REFERRED** to Judge Arnold.

14 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
15 party appearing *pro se* at said party's last known address.

16 DATED this 23<sup>rd</sup> day of May, 2005.

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19 Robert J. Bryan  
20 United States District Judge  
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